

January 24, 1989

TO THE MEADOWVILLE WATER USERS:

This letter is written to present and clarify the State Engineer's position on the distribution issues which have occurred in the Meadowville Area. The Proposed Determination which was published by the State Engineer's Office and which is commonly known as the "Red Book" incorporated the water claims and earlier interlocutory orders of previous adjudication work. Water rights in the "Red Book" which were not protested were confirmed by the District Court in the November, 1969 Decree. The Decree also specifically addressed the issues raised by the protestants. The 1969 Decree did not contain any amendments to the water rights for the Meadowville Area as listed and described in the "Red Book". All water users were properly noticed and had ample opportunity to protest the book before the Decree was issued. Therefore, the "Red Book" is the controlling document and the State Engineer must use it as the basis for distribution. The current distribution schedule is based upon the rights described in the "Red Book".

COOK'S RESERVOIR

According to the rights described in the "Red Book" and the applications approved by the State Engineer, the Cooks have a right to store up to 0.5 cfs of the flow of Little Cheney Spring stream in their reservoir. The water may be held in the reservoir from January 1st to December 31st. However, water may be diverted into the reservoir for storage only between October 1st and March 31st. Any other flows from Little Cheney Spring stream or other sources may be diverted into the reservoir but cannot be stored and must be passed through. The water stored in the reservoir may be used between May 1st and October 31st.

NORTH CREEK

Between April 1st and June 30th the flows of North Creek are to be divided equally between J. N. Cook, Dale Clarence Cook and Farrell Johnson or their successors in interest up to a maximum of 4 cfs each. The water may be divided fractionally when the flow of the creek is above 4 cfs; however, when the flow drops below 4 cfs the water must be divided on a turn basis. Each turn being 72 hours in length. Taking the water on turns will allow an adequate flow of water to reach the Johnsons. On July 1st or when the flow of the creek reaches 2.5 cfs or less (whichever is later) the flow of North Creek will be divided equally between J. N. Cook and Dale Clarence Cook or their successors in interest. The Cooks' water rights on North Creek may not be stored in their reservoir. If the water is diverted to the reservoir to facilitate their irrigation practices the water must be immediately passed through it.

JEBO CREEK/TUFT CREEK/MEADOWVILLE CREEK & JUDD KIMBALL SPRING

The distribution of the flows of Jebbo Creek, Tuft Creek, and Judd Kimball Spring changes on either May 19th or June 1st according to the measurement taken on Tuft Creek Ditch on May 18th as described in the "Red Book". The distribution of

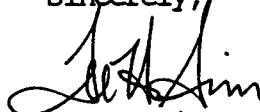
the flow of Meadowville Creek above the Meadowville Canal remains the same throughout the irrigation season. The rights on Judd Kimball Spring and on Meadowville Creek above the Meadowville Canal Diversion total 4.8 cfs. Any flow above 4.8 cfs must be allowed to flow downstream to make up rights on the lower stretches of Meadowville Creek. If a tight dam is installed, water must be delivered to each right holder according to the rotation schedule described in the distribution schedule. A right holder may have his water delivered at a point below the tight dam on the basis of the rotation schedule if the appropriate Change Applications have been approved by the State Engineer.

CHANGES IN IRRIGATION PRACTICES

The State Engineer does not have the authority to regulate irrigation practices unless the changes involve a change in the point of diversion or a change in the location of lands being irrigated. Therefore, any interference caused by changed irrigation practices cannot be regulated by the State Engineer unless the above conditions apply. If changes in irrigation practices occur which are outside of the State Engineer's regulatory authority but which interfere with existing water rights, the water users involved resolve the problem themselves and pursue whatever legal remedies are available including Civil Court action if necessary.

If you have any questions concerning these issues, please contact me (538-7380) or Bob Fotheringham, Northern Area Engineer (752-8755).

Sincerely,



Lee H. Sim, P. E.
Directing Engineer for
Adjudication/Distribution

LHS:bd

cc: Robert Fotheringham
Dan Peart, Commissioner
Sim Weston, Chairman